

Test Yourself on ESY Requirements

Compiled by Perry Zirkel

The published court decisions and administrative rulings regarding **extended school year (ESY)** are largely clustered in two waves. The initial cases concerned whether **ESY** was available under the IDEA. The second wave clarified when—under what circumstances—**ESY** is required.

The legal literature is limited with respect to the relevant case law. As a quick but comprehensive means of self-review, listed below are several true-false questions, followed by quick summaries of the applicable judicial and administrative rulings.

ESY Quiz

1. ESY is not required if a school district, pursuant to state law, uniformly offers all students with disabilities the same number of school days per year. ____True ____False
2. The school district is not responsible for covering the cost of ESY if it has provided the disabled student with round-the-clock services of a residential placement. ____True ____False
3. The sole standard for determining ESY eligibility is regression/recoupment. ____True ____False
4. Regression/recoupment must be proven by actual data, prospective opinions of expert witnesses are not sufficient. ____True ____False
5. ESY is only available to students with severe mental, not emotional impairments. ____True ____False
6. In the event, requisite regression must be in the academic area, not the emotional, physical or communication area. ____True ____False
7. As a remedy for a school district's failure to provide ESY where it was warranted for the child, a court or hearing officer may order reimbursement of tuition and expenses incurred by parents in having provided such a program. ____True ____False
8. As a remedy, a court or hearing officer may order compensatory education services where neither the school district nor the parent provided an ESY program as needed by the child. ____True ____False
9. ESY does not apply to students in school district preschool special education programs. ____True ____False
10. The length and scope of ESY programs are within the discretion of the school district. ____True ____False

Answers ESY Quiz

1. **False** A consistent cluster of early court decisions established that a uniform number of school days per year, typically 180, violates the IDEA's mandate for an individual education.
2. **False** Regardless of whether the student was placed in a residential setting, he or she is entitled to ESY at no cost to the parents if he or she meets the criteria for ESY.
3. **False** Although regression/recoupment is a recognized criterion for ESY, courts have made it clear that other criteria also apply, such as, the degree of the disability, availability of other resources, and the parent's ability to provide educational structure at home. Sole reliance on regression/recoupment is a violation of IDEA.
4. **False** In cases where parents have not exposed their disabled children to a lengthy break in programming, courts have allowed the blank to be filled by prospective opinions of expert witnesses based on individual evaluation.
5. **False** For example, ESY is also available for seriously emotionally disabled students.
6. **False** Courts have made it clear that regression in emotional condition, physical skills, or communication performance may suffice.
7. **True** Following the generic rationale of *Burlington School Committee v. Department of Education*, a court may award reimbursement of tuition and related expenses as appropriate relief. Similarly, hearing and state review officers have issued such relief in several cases.
8. **True** Compensatory education services is an appropriate form of relief in such cases.
9. **False** The U.S. Department of Education has interpreted Part B to extend ESY entitlement to preschool programs, including children who reach age three during the summer months after being served by Part H.
10. **False** The ESY program must meet the individual needs of the eligible child. School districts have lost cases where they provided ESY but the scope or length of the program did not meet the child's individual needs.